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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,584	09/30/2003	Melissa Ann Clark	030627/267409	9953

826 7590 02/28/2006

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CHARLOTTE, NC 28280-4000

EXAMINER
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MAYES, DIONNE WALLS

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,584	<b>Applicant(s)</b> CLARK ET AL.	
	<b>Examiner</b> Dionne Walls Mayes	<b>Art Unit</b> 1731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 18-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-14, 18-22 and 24-27 is/are rejected.
- 7) ☒ Claim(s) 5-7, 15, 16 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 8-14, 18-22, 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horsewell et al (US. Pat. NO. 3,635,226) in view of Aronson (US. Pat. No. 3,545,345).

Horsewell et al discloses nearly all that is recited in the claims since it teaches a cigarette comprising a tobacco rod 2, and a filter element connected thereto, wherein the filter element comprises a filter section 5 distal from the tobacco rod 2 (corresponding to the claimed "first longitudinally extending section of filter material"), and a filter section 6 proximal to the tobacco rod 2 (second longitudinally extending section of filter material"). Filter section 5 contains, therein, a capsule 7', formed of an impermeable rupturable enclosure having a flavor-enhancing substance therein (corresponding to the claimed "breakable capsule"). Additionally, filter section 6 may contain an additive which has a filtration-enhancing action on the cigarette smoke (See entire document; especially Fig. 2). While Horsewell et al may not state that this "filtration-enhancing" additive is an adsorbent, Aronson discloses that activated charcoal (an adsorbent) has been known to enhance the filtering efficiency of cigarette filters for some time now (see col. 1, lines 36-56). Therefore, it would have been obvious to one

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having ordinary skill in the art at the time of the invention to have utilized an adsorbent, such as activated charcoal, as the filtration-enhancing additive, because of its wide use in the tobacco art.

Regarding claims 3-4, while Horsewell et al may not disclose that its second section of filter material is made of plasticized cellulose acetate tow, this would have been an obvious choice since such material is conventionally used for cigarette filters.

Regarding claims 8-9, when the cigarettes of Horsewell et al are constructed with three-segment filters, the length of said filter elements can be 37 mm (see Example V)

Regarding claims 12 and 14, it follows that the activated carbon disclosed in cigarette of the combined references would obviously have the claimed properties.

Regarding claims 21-22, it would have been obvious to one having ordinary skill in the art at the time of the invention to have includes a medium chain triglyceride mixture as a diluting agent for the flavor-enhancing liquid of the capsule since doing so is conventional in the tobacco art.

Regarding claims 24-25, it follows that one having ordinary skill in the art would have arrived, after routine experimentation, at a breakable capsule size of between 3-5 mm in diameter given that the length of the filter section that contains it is 7 mm in length, in order to achieve an optimal size for said capsule.

Regarding claim 26, it follows that the capsule would contain a substance that would not only enhance flavor, but also freshen breath, such as a mint flavoring, since such flavor is common in many arts.

***Allowable Subject Matter***

3. Claims 5-7, 15-16, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

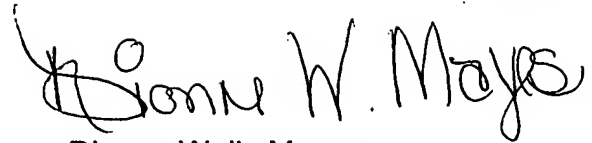
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne Walls Mayes whose telephone number is (571) 272-1195. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, reading "Dionne W. Mayes". The signature is written in a cursive style with a large, stylized "D" and "M".

Dionne Walls Mayes  
Primary Examiner  
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February 22, 2006